

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 18 June 2003

Case No.: 2003-CLA-6

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION, UNITED
STATES DEPARTMENT OF LABOR,
Plaintiff

v.

BUNKY'S CHARTER BOATS, INC.,
Respondent

DECISION AND ORDER APPROVING CONSENT FINDINGS

The parties, pursuant to 29 C.F.R. § 18.9, (made applicable to these proceedings by virtue of 29 C.F.R. § 580.7(a)), hereby agree to the following Consent Findings:

1. By notice dated June 24, 2002, pursuant to Section 16(e) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 216(e)) (hereinafter the Act), and in accordance with 29 C.F.R. Parts 579 and 580, civil money penalties were assessed by Plaintiff against Respondents as a result of employment of six (6) minors in violation of the child labor provisions of Section 12 of the Act (29 U.S.C. § 212) and the regulations issued thereunder (29 C.F.R. Part 570).

2. By letter dated July 3, 2002, Respondents filed a timely exception to the assessed civil money penalty pursuant to 29 U.S.C. § 216(e) and 29 C.F.R. § 580.10.

3. This matter was referred to the Chief Administrative Law Judge, by Order of Reference, pursuant to 29 C.F.R. § 580.10 on March 22, 2000.

4. Respondent certifies that it is presently in compliance with the provisions of § 12 of the Act (29 U.S.C. § 212), and the regulations set forth at 29 C.F.R. Parts 570 and 579, and further states that it will continue in compliance therewith.

5. Plaintiff does hereby modify the Assessment of Civil Money Penalty by reducing the

total assessment to \$19,000.00.

6. Respondent hereby withdraws its exception to the assessment of civil money penalties as modified and agrees to accept the modified penalties as final and binding and agrees to deliver to Plaintiff's representatives a check in the amount of \$1,035.79 within thirty (30) days of the Court Order approving these Consent Findings, and to deliver to Plaintiff's representative eighteen additional payments each in the amount of \$1,035.79, which includes 4.25% interest, beginning thirty days from the date of the initial payment and continuing over the next eighteen months. The payment shall be submitted to the U.S. Department of Labor, Wage and Hour Division, Suite 850W, 170 S. Independence Mall West, Philadelphia, PA 19106-3317.

7. Any Order entered in accordance with these Consent Findings shall, pursuant to 29 C.F.R. § 18.9(b)(1), have the same force and effect as an Order made after full hearing.

8. The entire record upon which any final Order may be based shall, pursuant to 29 C.F.R. § 18.9(b)(2), consist of the Order of Reference filed in this matter and these Consent Findings.

9. All further procedural rights provided by 29 C.F.R. Part 580 and any rights to contest the validity of these Consent Findings or any Order issued pursuant thereto are hereby waived.

10. Each party agrees to bear its own attorneys' fees, costs, and other expenses incurred in connection with any stage of these proceedings, including but not limited to attorneys' fees and costs which may be available under the Equal Access to Justice Act, as amended.

Having reviewed the Consent Findings, I conclude that this settlement is in the best interests of all the parties and it is therefore ORDERED that the settlement agreement shall be, and the same hereby is APPROVED pursuant to the provisions of 29 C.F.R. Section 6.32.

SO ORDERED.

A

LINDA S. CHAPMAN
Administrative Law Judge